

cle in the same manner and upon the same procedures prescribed in sections 20-41 through 20-43 of this Code for revocation or suspension of a food dealers permit.

(Code 1968, § 19-87; Ord. No. 81-1458, § 2, 8-4-81)

Secs. 20-109—20-119. Reserved.

ARTICLE IV. SEAFOOD DEALERS*

DIVISION 1. GENERALLY

Sec. 20-120. Definition.

As used in this article the term "department" shall mean the department of health.

Sec. 20-121. Fixed place of business required.

It shall be unlawful for any person to sell, or engage in the business or wholesale distribution of, or offer for sale or distribution, within the city, any fish, oysters, shrimp, lobsters, crabs or other seafood without having a fixed and established place of business within the city for such purpose unless such a business outside of the city is duly inspected and approved by another local, state or federal health authority.

(Code 1968, § 19-413)

Sec. 20-122. General requirements for buildings and premises.

The building in which any business for which a permit is required by this article, is to be conducted shall be constructed in accordance with the laws and ordinances of the city. Such premises shall be properly ventilated; the walls of such premises, and the benches, tables, and other furniture therein shall be built and constructed in such manner that they can easily be kept clean; such premises shall contain sufficient and adequate refrigeration; all plumbing shall comply with the plumbing rules and regulations of the city. Such premises shall be equipped with sanitary toilets, as required by the laws of the state, and such toilets shall not be located in any room which shall connect directly with the rooms where

seafood products are cleaned, packed, stored or prepared for or offered for sale. The premises shall be equipped with wash basins or basins with individual or paper towels available in such toilets, and dirty, unused clothing shall not be permitted to be stored or kept in any room in such premises where seafood products are cleaned, stored, packed, prepared for or offered for sale, unless kept in a clean, covered container.

(Code 1968, § 19-414)

Cross reference—Building code, § 10-1.

Sec. 20-123. Inspection of premises.

It shall be the duty of the health officer to inspect the establishments located in the city regulated by this article from time to time after a permit has been issued, and as often as, in the discretion of the health officer, may be necessary for the proper regulation of such establishments, within the terms of this article.

(Code 1968, § 19-415)

Sec. 20-124. Compliance with state or federal regulations.

It shall be unlawful to sell or offer for sale within the city, any fish, oysters, shrimp, lobsters, crabs or other seafood which, if taken from the waters under the jurisdiction of the state, have not been approved by the state department of health and under the regulations and permit of such department, both as to preparation and packing for shipment and shipment, or if such fish, oysters, shrimp, lobsters, crabs or other seafood is taken from the waters under the jurisdiction of any other state, it shall be unlawful to sell or offer for sale within the city any fish, oysters, shrimp, lobsters, crabs or other seafood which has not been taken from the waters under the jurisdiction of such state, and under the regulations and permit of and approved by the proper authorities of such state, and of the United States public health service, both as to preparation and packing for shipment and shipment, and in so selling and offering for sale such fish, oysters, shrimp, lobsters, crabs or other seafood, it must be indicated either by certificate or otherwise from such state authorities that such fish, oysters, shrimp, lobsters, crabs or other seafood was taken from

*Cross reference—Itinerant vendors, Ch. 22.

the water and packed and shipped as approved and required by such regulations.
(Code 1968, § 19-416)

Sec. 20-125. Percentage of ice and water permitted in oysters.

It shall be unlawful for any person to sell or offer for sale any quantity of oysters where the whole weight of ice or water, or both, exceeds five percent of the whole weight of the oysters sold or offered for sale.
(Code 1968, § 19-417)

Secs. 20-126—20-133. Reserved.

DIVISION 2. PERMIT

Sec. 20-134. Required.

It shall be unlawful for any person to sell, or engage in the business of the wholesale distribution of, or offer for sale or distribution, within the city, any fish, oysters, shrimp, lobsters, crabs or other seafood without first having obtained a permit so to do from the health officer.
(Code 1968, § 19-423)

Sec. 20-135. Application.

Application for a permit required by the provisions of this division shall be made in writing to the health officer, upon a blank to be furnished by the department, stating:

- (1) The name and address of the applicant;
- (2) The number of establishments to be maintained and operated;
- (3) The location thereof;
- (4) The nature of the business of the applicant;
- (5) The name of the owner of such establishment; and
- (6) The name under which such establishment is to be operated.

A separate application shall be made for each establishment to be maintained and operated by the applicant.
(Code 1968, § 19-424)

Sec. 20-136. Inspection of applicant's premises.

After the filing of an application for a permit under this division, it shall be the duty of the health department to make an inspection of the premises in and upon which the applicant desires to conduct such establishment and business, to determine that such premises is in compliance with all applicable provisions of this article.
(Code 1968, § 19-425)

Sec. 20-137. Fee.

(a) The annual fee for a permit required by this division shall be \$75.00 for each establishment to be operated by the applicant, payable in cash in advance.

(b) A permit holder that has lost its current, valid permit may obtain a replacement permit from the health officer for a fee of \$10.00.
(Code 1968, § 19-426; Ord. No. 82-1109, § 11, 7-13-82)

Sec. 20-138. Issuance.

Upon compliance with the sanitary and pure food laws of the state and upon compliance with the terms and provisions of this article by the applicant for a permit under this division, the health officer shall issue the permit; provided, that no permit shall be issued, unless the building in which the business is to be conducted is constructed in accordance with applicable provisions of the Construction Code.
(Code 1968, § 19-427; Ord. No. 02-399, § 50, 5-15-02)

Cross reference—Building code, § 10-1.

Sec. 20-139. Does not authorize peddling.

Under the terms of a permit issued pursuant to this division, the permittee shall not be allowed to peddle from house to house or from place to place, but his sales must be made directly either by delivery upon a previously executed order or directly from his place of business.
(Code 1968, § 19-428)

Sec. 20-140. Expiration.

All permits issued under this division shall expire on the first day of January of each year. (Code 1968, § 19-429)

Sec. 20-141. Revocation.

Should the holder of any permit provided for in this division violate any of the provisions of this article, such permit may be revoked or suspended after notice to the permit holder and a public hearing conducted by the health officer in the same manner and upon the same procedures prescribed in sections 20-41 through 20-43 of this Code for revocation or suspension of a food dealer's permit.

(Code 1968, § 19-430)

Secs. 20-142—20-160. Reserved.

ARTICLE V. FARM PRODUCE*

DIVISION 1. GENERALLY

Sec. 20-161. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certified farmers market means a farmers market that has been certified by the Texas Department of Agriculture pursuant to Subchapter D of Title 4 of the Texas Administrative Code.

Department means the department of health and human services.

Director means the director of the department.

Establishment means any building, structure or stand where only farm produce is sold or offered for sale, or, within a certified farmers market, a building, structure or stand where only farm products are sold or offered for sale.

*Cross reference—Itinerant vendors, Ch. 22.

Farm produce means herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes in their natural state.

Farm products means farm produce, shelled peas or legumes, yard eggs, and packaged foods processed or manufactured by a vendor in a licensed food establishment and packaged and labeled according to all applicable laws.

Food shall have the meaning ascribed in article II of this chapter.

Market manager means a person who is designated as the person-in-charge of a certified farmers market.

Peddler means all persons, as well as their agents and employees, who engage in the temporary or transient business in the city of selling or offering for sale farm produce, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof, or who sell or offer for sale upon the public streets from any vehicle, conveyance or instrumentality making delivery at the time of sale of such farm produce and who have no established place of business for the sale and distribution of such farm produce within the city.

Potentially hazardous food shall have the meaning ascribed in article II of this chapter.

Sampling means the demonstration or promotion of a food and its characteristics via the on-site preparation and offering of the food in small servings which cannot be sold and which may not consist of a whole meal, an individual portion or a whole sandwich.

Temporary or transient means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which such business is to be operated or conducted.

Vendor means any person who sells or offers for sale farm products or engages in sampling in a certified farmers market.

Yard eggs means ungraded shell eggs from a producer defined in Chapter 15 of Title 4 of the Texas Administrative Code.

(Code 1968, § 19-441; Ord. No. 03-1047, § 1, 11-12-03; Ord. No. 04-1013, § 1, 9-29-04)

Sec. 20-162. Requirements as to sales establishments.

Each establishment from which farm produce is displayed, sold or offered for sale shall be provided with floors constructed of a substance or material that is capable of being washed, cleaned and kept in a sanitary condition. The establishment shall have a roof; provided, however, this particular provision pertaining to a roof shall not apply to trucks, wagons, any other conveyances or other vehicles. The farm produce contained in such establishment shall be kept, stored or displayed on a counter or structure which is not less than 18 inches above the floor (with the exception of watermelons). There shall be available to each of such establishments running water and rest room facilities.

(Code 1968, § 19-442)

Sec. 20-163. Enforcement.

The director is authorized to utilize all employees of the department in the enforcement of this article.

(Code 1968, § 19-443)

Sec. 20-164. Exemptions from article.

(a) This article shall not apply to a farmer who peddles, sells or offers for sale farm produce from door to door, house to house, or building to building, provided such farm produce was grown or raised by such farmer, the burden of proof being on the person asserting that he is a farmer and that he grew or raised such farm produce.

(b) The term "peddler" as defined in this article shall not include or be construed to include any person engaged in interstate commerce or any person upon whom the provisions of this article would impose a direct and unlawful burden on interstate commerce.

(Code 1968, § 19-444)

Secs. 20-165—20-173. Reserved.

DIVISION 2. LICENSE FOR PEDDLERS AND SALES ESTABLISHMENTS

Sec. 20-174. Required.

It shall be unlawful for any person, either for himself or as agent or representative of another, to:

- (1) Engage in the business of selling or offering for sale farm produce, in the city limits, as a peddler of such farm produce, without first having obtained a license therefor.
- (2) Maintain or operate an establishment for the retail sale of farm produce without first having obtained a license therefor.

(Code 1968, § 19-450)

Sec. 20-175. Application.

Every person, before engaging in the business of selling farm produce from door to door, or peddling farm produce, or before opening, maintaining or operating an establishment for the sale of farm produce within the city limits, shall make application for a license for such door to door sales or for an establishment to be maintained or operated by such person, upon a blank furnished by the director on a form prescribed by such officer, which shall include, among other things, the following information:

- (1) Name, address and telephone number of applicant's residence and of the establishment; and
- (2) The license number of all vehicles used in peddling, selling or offering for sale, or delivering such farm produce.

(Code 1968, § 19-451)

Sec. 20-176. Fee.

(a) *Annual.* A license fee of \$100.00 per annum shall be paid prior to obtaining a license provided for in this division and prior to engaging in any business connected with farm produce where a license is required by this division.

(b) *Replacement.* A license holder who has lost his current, valid license may obtain a replacement license from the health officer for a fee of \$10.00.

(Code 1968, § 19-452; Ord. No. 81-253, § 2, 2-17-81; Ord. No. 82-1109, § 1, 7-13-82; Ord. No. 84-947, § 5, 6-20-84)

Sec. 20-177. Issuance or denial generally; term.

Upon receiving the application for a license under this division, the health officer shall make an inspection of the vehicles to be used by the applicant or of the establishment for which a license is desired, and if such establishment or vehicles comply with the provisions and requirements of this article, as well as other ordinances of the city which pertain to the operation of such establishment or vehicles, then the health officer shall approve the application upon the payment of the license fee and a license shall be issued to such applicant which shall be effective for one year from the date of issuance. In the event the health officer shall determine that such establishment of the applicant or any vehicle does not comply with the provisions of this article and other ordinances of the city which pertain to the operation of such establishments or vehicles, then the director shall disapprove such application. (Code 1968, § 19-453)

Sec. 20-178. Appeal from denial.

An applicant who has been refused a license under this division may, within ten days, appeal to the city council by filing with the city secretary a copy of such application, showing the action of the director, and requesting that the city council grant a hearing and overrule the action of the health officer. In the event the city council sustains the action of the health officer, then its action shall be final and no license shall issue. (Code 1968, § 19-454)

Secs. 20-179—20-185. Reserved.

DIVISION 3. CERTIFIED FARMERS MARKETS

Sec. 20-186. Scope.

This division is applicable only to certified farmers markets and establishments therein. (Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-187. Prohibited activities.

(a) It shall be unlawful for any person to operate a certified farmers market without first having obtained a license therefor as required by this division.

(b) It shall be unlawful for any vendor to display, sell or offer for sale any food item other than farm products.

(c) It shall be unlawful for any person at any establishment within a certified farmers market to engage in food preparation other than that involved in sampling. (Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-188. Additional requirements.

All vendors shall comply with the applicable requirements of article II of this chapter in addition to the provisions of this division. The health officer may impose additional requirements to protect against health hazards related to the conduct of a certified farmers market and may prohibit the sale of some or all potentially hazardous foods where such action is reasonably necessary to protect the public from food borne illness. (Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-189. Sanitation requirements.

All vendors shall comply with the following sanitation requirements:

- (1) *Refrigeration.* Mechanical refrigeration shall be provided as required in section 20-21.3(b)(1) of this Code for the storage of all potentially hazardous foods. The use of dry ice or cold packs as a substitute for mechanical refrigeration of potentially hazardous foods shall be acceptable only if used for six hours or less during a single day.

- (2) *Equipment.* All equipment, including hot/cold food storage facilities must meet the requirements of article II of this chapter regarding food storage and equipment design and fabrication.
 - (3) *Toilet facilities.* Approved toilet facilities shall be available at all times for vendors, their employees, and volunteers. All toilet rooms approved for use by vendors, employees and workers shall conform to the requirements of section 20-21.18 of this Code.
 - (4) *Hand-washing.* A hand-washing sink provided with hot and cold water under pressure and tempered through a mixing valve shall be provided in or immediately adjacent to each toilet room used by vendors. A supply of soap and paper towels or other approved hand-drying device shall be provided adjacent to each hand-washing sink.
 - (5) *Food protection; general.* At all times, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage. Delivery vehicles or other equipment used for food transportation shall be kept clean and shall be constructed so as to protect the food from contamination. Food samples for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices. Clean, disposable plastic gloves shall be worn by the vendor during sampling. Food intended for sampling shall be prepared, handled, and dispensed so as to be wholesome and safe for human consumption.
 - (6) *Wet storage.* The storage of unpackaged and packaged food in contact with water or ice is prohibited, except that produce and packaged farm products may be stored in contact with continuously drained ice obtained from an approved source.
 - (7) *Waste.* Liquid and solid waste shall be disposed of in accordance with all applicable laws.
 - (8) *Garbage and rubbish.* All garbage and rubbish shall be stored and disposed of in a manner approved by the health officer.
 - (9) *Live animals.* No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored, displayed or held, excluding patrol dogs or support animals when used in the manner specified in section 20-21.28(f) of this Code.
- (Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-190. Sampling operations.

All vendors conducting sampling shall comply with the following sanitation requirements:

- (1) *Limited preparation.* Only those potentially hazardous foods approved by the health officer and foods requiring limited preparation shall be prepared, displayed, served or sampled.
- (2) *Temperature maintenance.* Potentially hazardous foods requiring limited preparation shall be served and maintained at the internal temperature of 41°F (5°C) or below or 140°F (60°C) or above in facilities that meet the requirements of this article except for shell eggs, as described in section 20-21.1(b)(3), which shall be stored at 45°F (7°C) or below according to all applicable laws. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.
- (3) *Disposal.* All food samples shall be disposed within four hours after beginning of the operation, if not served or consumed.
- (4) *Food service manager's certification.* The market manager or the operator of the establishment shall attend the food service manager's certification course in accordance with sections 20-52 and 20-53 of this Code. At least one certified manager shall be present when sampling operations are being conducted.

- (5) *Water.* Vendors shall have sufficient hot and cold potable water for cleaning foods and for cleaning and sanitizing equipment and utensils.
- (6) *Single use articles.* Only single use articles as defined in article II of this chapter shall be provided for use by consumers.
- (7) *Hand-washing.* An approved facility for employee hand-washing, consisting, at a minimum, of warm, clean running water, soap, and individual paper towels or other approved hand drying device shall be provided near the vendors' establishments.
- (8) *Equipment and utensil cleaning and sanitation.* An approved facility shall be provided for washing, rinsing and sanitizing of equipment and utensils used in the preparation and service of samples. The facility must consist of at least three containers or compartments, each of adequate size so as to permit the total immersion of all utensils used in the vendor's establishment. Washing, rinsing and sanitizing shall be conducted as specified under subsections (d) and (e) of section 20-21.12 of this Code.
- (9) *Walls and ceilings.* Walls and ceilings, where required by the health officer to protect food from contamination and to protect the public from food borne illness, shall be made of wood, canvas, or other similar material that protects the establishment from the weather and other contaminating agents. When required, screening material used for walls shall be at least 16-mesh to the inch.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-191. Inspections; enforcement.

(a) The health officer shall inspect each establishment within a certified farmers market at least once every 12 months, and shall make as many additional inspections as are necessary for the enforcement of this division.

(b) The market manager of a certified farmers market shall be responsible for ensuring daily compliance with the provisions of this division. In

the case of repeated violations of these requirements, the health officer may impose restrictions on the selling or sampling of some foods.

(c) All violations shall be corrected at the time of inspection unless an extension is allowed by the health officer. In determining whether to allow an extension and the length of the extension, the health officer shall consider the degree of risk, if any, that is posed by the violation and the time reasonably required to correct it. No extension shall be granted where any significant risk of food borne illness is posed to the public. If violations are not corrected within the specified time limits, the health officer shall immediately suspend the license.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-192. License.

(a) *Application.* Any person desiring to obtain or renew a certified farmers market license shall make written application for a license on a form promulgated by the health officer. The application shall include:

- (1) The applicant's full name, post office address, home and business telephone number;
- (2) Copy of the current and valid farmers market certification issued to the applicant by the Texas Department of Agriculture;
- (3) Copy of the certified farmers market association by-laws, list of governing body members, and membership list;
- (4) A property owner agreement letter;
- (5) A description of the certified farmers market season, and days and hours of operations; and
- (6) A list of all vendors who hold a current and valid food manufacturers license issued by the State of Texas and copies of those licenses.

(b) *Posting of license.* A certified farmers market shall have its certified farmers market license posted in view of the public during hours of operation.

(c) *Term.* A license shall be issued for a period of one year.

(d) *Renewal.* An application for renewal of a certified farmers market license must be received by the department, accompanied by the applicable fee, before the expiration date of the previous license. Information provided in a renewal application must be current and valid.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-193. Fees.

(a) At the time of application for a certified farmers market license and each renewal thereof, the applicant shall pay to the health officer a nonrefundable annual fee, which shall be based on the number of vendors as follows:

Certified farmers market with ten or more vendors	\$250.00
Certified farmers market with nine or fewer vendors	150.00

(b) *Replacement fee.* A license holder who has lost his valid, current certified farmers market license may obtain a replacement from the health officer for a fee of \$10.00.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-194. Issuance or denial generally; term; suspension; revocation.

(a) Upon receiving the application for a license under this division, the health officer shall make an inspection of the certified farmers market and each vendor's establishment within a certified farmers market, and if the certified farmers market complies with the provisions and requirements of this division, as well as other applicable ordinances, then the health officer shall approve the application upon the payment of the license fee and issue a license to the applicant. In the event the health officer shall determine that the applicant's certified farmers market does not comply with the provisions of this division or other ordinances, the health officer shall disapprove the application.

(b) *Suspension or revocation.* A license issued pursuant to this division may be suspended or revoked upon the suspension, withdrawal, or non-

renewal of a farmers market certification issued by the Texas Department of Agriculture, or for violations of this division or of any state or federal laws, rules or regulations relating to activities covered by this division in the same manner and upon the same procedures prescribed in sections 20-41 through 20-43 of this Code for revocation or suspension for a food dealer's permit. In the event that a license issued under this division expires without timely renewal or is suspended or revoked, all operations within the certified farmers market shall be suspended until and unless the license for the certified farmers market is restored to valid status.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-195. Appeal from denial.

An applicant whose application for a certified farmers market license has been denied may, within ten days, appeal to a hearing officer appointed by the director. The hearing officer shall conduct a hearing in the same manner and upon the same procedures prescribed in sections 20-41 through 20-43 of this Code.

(Ord. No. 04-1013, § 2, 9-29-04)

Sec. 20-196. Alternatives; waivers.

The director or his designee may authorize alternatives to particular requirements of this division or any other provisions of this article with respect to a certified farmers market. An authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this division with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director or his designee may waive any requirement of this division upon his determination that failure to comply with the requirement, as applied to the operation of the certified farmers market or vendor's establishment, does not endanger the public health or safety of the food supply. An

approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.
(Ord. No. 04-1013, § 2, 9-29-04)

Secs. 20-197—20-199. Reserved.

ARTICLE VI. VENDING MACHINES

Sec. 20-200. Definitions.

As used in this article, the following words and phrases shall have the meanings set forth in this section unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense:

Bulk food means any food that, when it is dispensed to the customer, is not packaged, wrapped, or otherwise enclosed.

Condiment means any food, such as salt, pepper, mustard and ketchup, that is used to enhance the flavor of other food.

Commissary means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored with the intent that some or all of the items will be used in vending machines. The term shall not be construed to include an area or conveyance at a vending machine location that is used for the temporary storage of packaged food or beverages.

Controlled location vending machine (limited service vending machine) means a vending machine that:

- (1) Dispenses only nonpotentially hazardous packaged food;
- (2) Is designed so that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
- (3) Is intended for and used at locations in which protection is assured against environmental contamination.

Corrosion-resistant means those materials that maintain their original surface characteristics under prolonged influence of the food to

be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Easily cleanable means that surfaces are readily accessible and made with materials and finishes and so fabricated that residues may be effectively removed by normal cleaning methods.

Employee means the permit holder, individual having supervisory or management duties, and any other person who handles any food that is intended to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations, or who otherwise services or maintains the machines.

Equipment means vending machines, ovens, tables, counters, sinks, and similar items, other than utensils used in vending operations.

Filth means dust, dirt, insect excretions or other secretions, insect body parts, rodent hairs or excretions, feathers, or any other foreign or injurious contamination.

Food means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

Food-contact surfaces means those surfaces with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.

Garbage means every accumulation of animal, vegetable, and other waste matter that attends the preparation, handling, consumption, storage, or decay of plant and animal matter, including meats, fish and seafoods, birds, fruit, vegetable or dairy products and the waste wrappers or containers thereof.

Hermetically-sealed container means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Law means all applicable federal, state, and local statutes, ordinances, and regulations.

Machine location means the room, enclosure, space or area where one or more vending machines are installed and operated.

Operator means any person who takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

Packaged means bottled, canned, cartoned, or otherwise securely wrapped.

Person includes an individual, partnership, corporation, association, or other legal entity.

Potable water means water from an approved source that has been determined by the health officer, after appropriate testing, as suitable for human consumption.

Potentially hazardous food means food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or, in raw shell eggs, the growth of *Salmonella enteritidis*. The term includes any food of animal origin that is raw or heat-treated; any food of plant origin that is heat-treated or consists of raw seed sprouts; any cut melons; and any garlic-and-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth, as specified in this definition. The term does not include:

- (1) An air-cooled hard-boiled egg with shell intact;
- (2) Any food with a water activity (Aw) value of 0.85 or less;
- (3) Any food with a pH level of 4.6 or below when measured at 75°F (24°C);
- (4) Any food, in an unopened hermetically-sealed container, that is commercially-processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

- (5) Any food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* cannot occur, such as a food that has an Aw and a pH that are above the levels specified above and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and
- (6) Any food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in this definition.

Readily accessible means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Safe materials means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used, they are "safe" only if they are used in conformity with regulations established pursuant to Section 409 or Section 706 of the act. Other materials are "safe" only if they are not food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, and are used in conformity with regulations issued under the act.

Safe temperatures for potentially hazardous food means temperatures of 41°F (5°C) or below or 140°F (60°C) or above.

Sanitized means having received effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

Sealed means free of cracks or other openings that permit the entry or passage of moisture.

Single-service articles means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles designed for one-time, one-person use, and then discarding.

Utensil means any implement used in the storage, preparation, transportation or service of food.

Vending machine means any self-service device that, upon insertion of a coin, paper currency, token, card or key dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation. It shall also include self-service dispensers equipped for coin, paper currency, token, card, or key operation and optional manual operation. Unless otherwise stated, vending machine includes controlled location vending machines.

(Code 1968, § 19-600; Ord. No. 83-744, § 1, 5-17-83; Ord. No. 99-1346, § 2, 12-15-99)

Sec. 20-201. Food supplies.

(a) Food which is placed in any vending machine or is exposed for sale, offered for sale, or sold through a vending machine shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all applicable laws relating to food and food labeling. Food in hermetically sealed containers that were not prepared in a food processing establishment may not be placed in any vending machine.

(b) Food from commissaries outside the jurisdiction of the city may be sold within the city if such commissaries conform to substantially equivalent food service sanitation standards. To determine the extent of compliance with such provisions, the health officer may accept reports from the responsible authorities in the jurisdictions where the commissaries are located. Where such reports cannot be obtained or there is some question regarding their validity, the health officer may request the commissary in question to permit an inspection of the commissary. If the commissary in question refuses to permit such an

inspection after the health officer has determined the necessity for such an inspection, he shall bar the sale of food from that commissary within the city. The cost of inspections of commissaries outside the city shall be borne by the commissary. (Code 1968, § 19-601; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-202. Food protection.

Food intended for sale through vending machines shall be protected from any agent of contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, sneezes, flooding, draining, and overhead leakage or condensation at all times, including while being prepared, stored, loaded, displayed or transported.

(Code 1968, § 19-602; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-203. Temperatures.

The temperature of potentially hazardous foods shall be 41°F (5°C) or below or 140°F (60°C) or above at all times, except as otherwise provided in subsection 20-204(g) of this Code.

(Code 1968, § 19-603; Ord. No. 83-744, § 2, 5-17-83; Ord. No. 99-1346, § 3, 12-15-99)

Sec. 20-204. Potentially hazardous foods.

(a) Milk and fluid milk products offered for sale through vending machines shall be pasteurized, shall meet the Grade A quality standards as established by applicable laws, and shall be dispensed only in individual original containers.

(b) Milk and fluid milk products and fluid nondairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

(c) When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:

- (1) Packaged in individual portions in single-service containers; or
- (2) Made available from condiment self-service dispensing equipment at those loca-

tions having an on duty attendant if sanitary facilities are provided in accordance with article II of this chapter.

(d) Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor, or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.

(e) All food, other than fresh fruit, shall be stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.

(f) Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or package into which it was placed at the commissary or at the manufacturer's or processor's plant.

Potentially hazardous food shall not be dispensed from bulk food machines.

(g) Potentially hazardous food shall be maintained at safe temperatures except as follows:

- (1) During necessary periods of preparation and packaging; and
- (2) During the actual time required to load or otherwise service the machine not to exceed ten (10) minutes and for a maximum machine ambient temperature recovery period of thirty (30) minutes following completion of loading or servicing operation.

(h) Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units and thermostatic controls which insure the maintenance of safe temperatures at all times. Such vending machines shall also have automatic controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure, mechanical failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.

(i) Potentially hazardous food that has failed to conform to the time-temperature requirements of this article shall be removed from the vending machine and be denatured or otherwise rendered unusable for human consumption.

(j) Vending machines dispensing potentially hazardous food shall be provided with one (1) or more thermometers which, to an accuracy of plus or minus three (3) degrees Fahrenheit, indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

(Code 1968, § 19-604; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-205. Personal hygiene.

(a) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while engaged in handling foods or food-contact surfaces, utensils or equipment.

(b) Employees shall thoroughly wash their hands with soap and warm water immediately prior to

engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers or equipment. While engaging in such servicing operations, employees shall wear clean outer garments, shall not use tobacco in any form and shall keep their fingernails clean and trimmed. (Code 1968, § 19-605; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-206. Communicable disease.

(a) No person, while infected with a communicable disease that can be transmitted by foods or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in any area of a commissary or vending operation.

(b) When the health officer has reasonable cause to suspect the possibility of disease transmission from any employee, he may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The health officer may require any or all of the following measures:

- (1) The immediate exclusion of the employee from the commissary or vending operation.
- (2) The immediate closing of the commissary and vending operations concerned, in accordance with the procedures set out in section 19-615, until, in the opinion of the health officer, no further danger of disease outbreak exists.
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.
- (4) Adequate medical and laboratory examinations of the employee, of other employees and of such persons' body discharges.

(Code 1968, § 19-606; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-207. Interior of vending machines.

(a) The non-food-contact surfaces of the interior of vending machines shall be designed and constructed to permit easy cleaning and to facilitate maintenance operations and shall be kept clean and in good repair. Inaccessible surfaces and areas shall be minimized.

(b) All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks and chipped places. The design of such surfaces shall preclude routine contact between food and V-type threaded surfaces, except that in equipment where such contact is unavoidable, such as ice makers, such threads shall be minimized. All joints and welds in food-contact surfaces shall be smooth, and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

(c) If solder or other sealer is used on food-contact surfaces, it shall be composed of safe materials and be corrosion-resistant.

(d) All food-contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion-resistant, nonabsorbent, easily cleanable and durable under conditions of normal use, and shall be cleaned, rinsed and sanitized as often as necessary to keep such surfaces clean. The health officer may establish frequencies for such cleanings based upon the type of product being dispensed to ensure that the surfaces are kept clean and the operator shall comply with any such requirements.

(e) All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning, rinsing, sanitizing and inspection:

- (1) Without being disassembled; or
- (2) By disassembly without the use of tools; or
- (3) By easy disassembling with the use of only simple tools such as a screwdriver or an open-end wrench.

(f) All food-contact parts or surfaces not designed for in-place cleaning shall be cleaned, rinsed and sanitized in clean portable containers or in utensil washing sinks at the location or at the commissary. Cleaning shall consist of washing in warm water containing a suitable detergent and brushing or wiping, as appropriate. Rinsing shall consist of immersion or wiping with clean clear rinse water. Sanitizing shall be accomplished by:

- (1) Immersion or rinsing in water of at least one hundred eighty (180) degrees Fahrenheit

(eighty-two and two-tenths (82.2) degrees Celsius) for thirty (30) seconds; or

- (2) Immersion for one minute in a chemical sanitizing solution containing at least fifty (50) parts per million (p.p.m.) of available chlorine, or twelve and five-tenths (12.5) p.p.m. of available iodine, or two hundred (200) p.p.m. of quaternary ammonium sanitizer.

(g) In machines designed so that food-contact surfaces are not readily removable, all such surfaces intended for in-place cleaning shall be designed and fabricated so that:

- (1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and
- (2) Cleaning and sanitizing solutions will contact all food-contact surfaces; and
- (3) The system is self draining or capable of being completely evacuated; and
- (4) The procedures utilized result in thorough cleaning of the equipment.

(h) The openings into all nonpressurized containers used for the storage of vendible food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture or splash is possible. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch, and shall be provided with an overlapping cover flanged downward. Condensation-, drip- or dust-deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a watertight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of safe materials, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket-retaining grooves shall be easily cleanable.

- (i) The delivery tube or chute and orifice of all bulk food vending machines shall be protected

from normal manual contact, dust, insects, rodents, and other contamination. The design shall divert condensation or moisture from the normal filling position of the container receiving the food. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed except when food is being removed. The cup filling area or platform of vending machines shall not require a door or cover if there is no opening into the cabinet interior at the point other than for dispensing tube(s) or trapped waste tubing. The dispensing compartment of prepackaged candy and similar product vending machines shall be equipped with a self-closing lid at vending locations where insect or rodent entry into the machine may occur.

(j) The food storage compartment and other compartments in refrigerated vending machines which are subject to condensation or cooling water retention shall be self draining or equipped with a drain outlet which permits complete draining. In vending machines to store cartoned beverages, diversion devices and retention pans or drains for leakage shall be provided. All such drains and retention pans shall be easily cleanable.

(k) Can and bottle openers which come into contact with the food or the food-contact surfaces of the containers shall be constructed of corrosion-resistant, nonabsorbent and safe materials and shall be kept clean. Cutting or piercing parts of multiuse openers which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination, and such parts shall be readily removable for cleaning. (Code 1968, § 19-607; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-208. Exterior of vending machine.

(a) The vending machine shall be of sturdy construction and the exterior shall be designed, fabricated, finished and maintained to facilitate its being kept clean and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

(b) Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed to pre-

vent the entrance of dust, moisture, insects and rodents.

(c) All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than sixteen (16) mesh to the inch or equivalent. Screening materials for openings into condenser units which are separated from food and container storage spaces shall be not less than eight (8) mesh to the inch or equivalent.

(d) In all vending machines in which the condenser unit is an integral part of the machine, such unit, when located below the food and container storage space, shall be separated from such space by a dust-proof barrier, and when located above, shall be sealed from such space.

(e) In order to prevent seepage underneath the machine and to promote cleaning, free-standing vending machines shall have one or more of these elevation or movability features:

- (1) Be light enough to be manually moved with ease by one person; or
- (2) Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least six (6) inches (fifteen and twenty-four-hundredths centimeters) under the machine; or
- (3) Be mounted on rollers or casters which permit easy movement; or
- (4) Be sealed to the floor.

Where used, kickplates shall be easily removable or be capable of being rotated. These kickplates shall be designed and installed to make the area under the machine easily accessible for routine cleaning without unlocking the cabinet door.

(f) Counter type machines shall be:

- (1) Sealed to the counter; or
- (2) Mounted on four-inch (ten and sixteen-hundredths centimeters) legs or the equivalent; or
- (3) Easily movable for cleaning with service connections in place.

(g) All service connections through an exterior wall of the machines, including water, gas, electrical and refrigeration connections, shall be grommeted, or closed with no opening over one-thirty-seconds inch (seventy-nine-hundredths (0.79) millimeter) to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food shall be such as to discourage their unauthorized or unintentional disconnection.

(Code 1968, § 19-608; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-209. Vending machine locations.

(a) Vending machines, ovens and other equipment shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the equipment is located shall be well lighted and ventilated. Each vending machine shall be located so that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

(b) The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

(c) Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to bulk food machine locations and shall be available for use by employees servicing or loading bulk food machines.

(d) In operations where vending machines are rented, leased or owned by persons other than the holder of the commissary food dealer's permit, the facilities for cleaning and handwashing, and for garbage and refuse storage and disposal may be provided by persons owning, renting or leasing the vending machine(s) or by other persons. However, it is the responsibility of the holder of the commissary food dealer's permit to see that all of the requirements of this article are fulfilled.

(Code 1968, § 19-609; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-210. Single-service articles.

Single-service articles shall be purchased in sanitary packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be furnished to the customer in the original individual wrapper or from a sanitary single-service dispenser. All single-service articles shall be protected from manual contact, dust, insects, rodents, and other contamination.

(Code 1968, § 19-610; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-211. Equipment cleaning.

(a) All equipment at the vending location must be kept clean. Food-contact surfaces, if any, must be cleaned, rinsed and sanitized as often as necessary to keep such surfaces clean. The health officer may establish set frequencies for such cleanings to protect the public health based upon the type of product being dispensed, and the operator shall comply with any such requirements.

(b) The cavities and door edges of microwave ovens must be cleaned at least once a day with nonabrasive cleaners and shall be kept free of encrusted grease deposits and other accumulated soil. All doors, seals, hinges and latch fasteners (screws and related hardware) shall be kept tight and adjusted in accordance with manufacturer's procedures. Microwave ovens shall be in compliance with applicable safety standards of the U. S. Food and Drug Administration's Bureau of Radiological Health.

(c) Food contact surfaces of all equipment and utensils must be protected from contamination at all times including while being transported from the commissary to the vending location.

(Code 1968, § 19-611; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-212. Water supplies.

(a) All water used in vending machines shall be of a safe and sanitary quality and from a source constructed and operated according to all applicable laws. Water used as a food ingredient shall be piped to the vending machine under pressure, except that in controlled location vending machines,

water may be obtained from a safe source and carried to the machines in containers that are clean and of good sanitary construction.

External water-fill parts and drawers of controlled location vending machines shall be designed so that covers and drawers are secured to the machine.

All plumbing connections and fittings shall be installed and maintained according to all applicable laws.

(b) If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element.

(c) To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines manufactured after January 1, 1975, which are designed with an incoming water supply air gap, shall have no copper tubing or other potentially toxic water system tubing between the air gap and the downstream, carbonated water dispensing nozzle.

(d) To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces of post-mix soft drink vending machines which are indirectly connected to the external water supply system shall be equipped with a double (or two (2) single) spring-loaded check valve or other devices which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. Backflow preventive devices shall be located to facilitate servicing and maintenance. No copper tubing or other potentially toxic tubing or contact surfaces shall be permitted in or downstream from the check valves or backflow devices. These check valves or devices shall be inspected and cleaned or replaced not less than once every twelve (12) months and the holder of the food dealer's permit under which the machine is operated shall maintain a record thereof for inspection by the health officer upon request.

(e) Where spring-loaded check valves are used to prevent the backflow of carbon dioxide into accessible upstream copper or to other potentially

toxic piping or tubing, a screen of not less than one hundred (100) mesh to the inch shall be installed in the water line immediately upstream from the check valves in a location which permits servicing or replacement.

(f) In all vending machines in which carbon dioxide is used as a propellant, all food-contact surfaces from the check valves or other protective devices, including the valves of devices, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water. (Code 1968, § 19-612; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-213. Trash and garbage.

(a) All trash and other solid or liquid waste shall be removed from the machine location as frequently as may be necessary to prevent nuisances and unsightliness, and shall be disposed of in a lawful manner.

(b) Self-closing, leak-proof, easily cleanable, insect-proof and rodent-proof waste receptacles shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other items. Plastic bags and wet strength paper bags may be used to line the receptacles. Soiled waste receptacles shall be cleaned at such frequency as is necessary to prevent insect and rodent attraction.

Waste receptacles shall not be located within the vending machines, with the exception of those machines dispensing only packaged food with crown closures and ring tabs; in which case, the closure receptacles may be located under counters or otherwise enclosed in a manner that will not create a nuisance or prevent space around and under the counter or enclosure from being easily cleaned and maintained. Suitable racks or cases shall be provided for multiuse containers or bottles.

(c) Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. Such machines shall be equipped with an automatic shut-off device at the waste pail or other devices or valves which will place the machine out of operation before the waste pail overflows. Such devices shall prevent water or liquid

product from continuously running in the event of the failure of any single control, high level control, or other flow-control device in the liquid product or water system.

Controlled location vending machines not connected to a water supply system, and which generate no internal liquid wastes, may be equipped with easily removable drip pans at the dispensing platform in lieu of internal waste containers and automatic shut-off devices. Controlled location vending machines that are connected to a water supply and have no internal waste containers, shall be equipped with at least two (2) independently operated controls to prevent the continued flow of water in the event of failure of any single flow-control device.

Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion-resistant. If liquid wastes from drip, spillage or overflow which originate within the machine are discharged into a sewage system, the connection to the sewer shall be through an air gap.
(Code 1968, § 19-613; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-214. Machine identification, required lettering; records.

(a) On each vending machine there shall be conspicuously and permanently displayed, in letters of at least one-fourth inch in height, the business name, service telephone number and information notifying users of the machine of the telephone number of an agent of the operators where persons can report malfunctions of the machine and request refunds of money put into the machine when the machine has malfunctioned. The telephone number of the health department to which consumers may call to register complaints regarding the sanitation of the machine shall also be conspicuously and permanently displayed on each vending machine other than those machines described in section 20-216 which do not dispense any potentially hazardous foods. Such information shall be posted in numbers and letters of at least one-fourth inch in height. The health officer may designate the location, wording and manner in which the information required under this section shall be posted on vending machines if he
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finds that such requirements will aid in notifying consumers of the information, and operators shall comply with such requirements.

(b) All operators of vending machines, except as provided in section 20-216 shall:

- (1) Maintain, at the operator's headquarters or at some other designated location within the city, a current list of all vending machines operated by such operator within the city and the complete address of each machine location and of all commissaries or other establishments from which his machines are serviced.

This information shall be furnished to the health officer as a requirement for the renewal of the food dealer's permit and shall be available for inspection by the health officer during regular business hours;

- (2) Notify the health department, in writing, within thirty (30) calendar days of each new location at which vending machines which dispense potentially hazardous food, hot or cold cup beverages or bulk foods have been placed in operation; and
- (3) Notify the health department, in writing, within thirty (30) calendar days of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were originally designed and constructed.

(Code 1968, § 19-614; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-215. Permits.

(a) No person shall operate one (1) or more vending machines, other than those vending machines which are exempt under section 20-216, without first having obtained a food dealer's permit issued by the city health department in accordance with the requirements and provisions of article II of this chapter. Compliance with the requirements of this article and all other applicable provisions of this chapter shall be a condition for the issuance of a food dealer's permit when any vending machines are to be operated by the permit holder.

(b) No person shall operate any vending machine unless the permit holder has notified the health department, in writing, that intends to

operate one or more vending machines under his permit. Upon receipt of such information, the health department shall make a notation on the permit that one or more vending machines are being operated by the permit holder. Such permits are not transferable.

(c) A food dealer's permit may be revoked or suspended for violations of the requirements of this article, for conditions existing in connection with one or more vending machines operated by the permit holder which pose a substantial hazard to public health, for repeated or serious violations of other applicable provisions of this chapter, or repeated or serious violations of federal or state food laws. Any such suspension or revocation shall be made in accordance with the procedures set out in article II of this chapter. (Code 1968, § 19-615; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-216. Controlled location machines.

All controlled location vending machines and vending machines which dispense exclusively bottled or canned soft drinks, prepackaged ice, water, candy, cookies, crackers, or similar prepackaged, nonpotentially-hazardous snacks; or, ballgum, nuts, and panned candies are exempt from the requirements of subsection 20-214(b) and section 20-215, but shall meet all other applicable requirements of this article. (Code 1968, § 19-616; Ord. No. 83-744, § 3, 5-17-83)

Sec. 20-217. Inspections.

The health officer, after proper identification, shall be permitted to enter at any reasonable time upon any private or public property where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions of this article and all other applicable provisions of this chapter. The operator shall make provisions for the health officer to have access to the interior of all food vending machines operated by him in the company of the operator or his employee. (Code 1968, § 19-617; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-218. Inspection reports.

(a) Whenever an inspection of a food vending machine or machines is made, the original of the completed inspection form shall be furnished to the operator. A copy shall be made and, the copy shall become part of the health officer's permanent files.

(b) Whenever the health officer discovers a violation of any provision of this article or other applicable laws, he shall notify the operator concerned either by the inspection report form or by other written notice. Such form or notice shall:

- (1) Describe the condition found; and
- (2) Provide a specific period of time for the correction of the condition.

(c) The provisions of this section shall not relieve any person of criminal or civil penalties for such violation. (Code 1968, § 19-618; Ord. No. 83-744, § 1, 5-17-83)

Sec. 20-219. Compliance; penalties for violation.

(a) No person shall place or cause to be placed any food in a vending machine in the city unless the vending machine and the food placed in such machine are in full compliance with all applicable provisions of this article and all other applicable laws.

(b) A permit holder shall insure that all vending machines which he is operating and all food placed in such machines are in full compliance with this article and all other applicable laws.

(c) Whenever the health officer shall find any article of food which is adulterated, misbranded or which is detrimental to public health, he shall cause such article to be tagged or otherwise properly marked as provided by law. When it is not possible to tag the articles of food within a vending machine, the health officer shall cause the machine containing the food items in question to be tagged.

(d) Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$2,000.00;

provided however, if such person is convicted of an offense under this article which offense is also a violation of the penal laws of the state, such person shall be subject to the penalties set out in the penal laws of Texas for the offense.

(Code 1968, § 19-619; Ord. No. 83-744, § 1, 5-17-83; Ord. No. 92-1449, § 36, 11-4-92)